

## **REMARKS**

### **I. Status of Claims**

Claims 2, 4-14 and 16-18 are pending in the application. Claims 4, 6 and 7 are independent. Claims 2, 4, 6-8, 10, 12-14 and 16-18 are currently amended. Claims 1, 3, 15, 19 and 20 are canceled without prejudice to and/or disclaimer of the subject matter therein.

Claims 1-20 stand rejected under 35 USC 102(e) as allegedly being anticipated by Ito et al. (USP 6,763,799) (“Ito”).

The Applicant respectfully requests reconsideration of these rejections in view of the foregoing amendments and the following remarks.

### **II. Pending Claims**

Claims 4, 6, and 7, the only independent claims, stand rejected under 35 USC 102(e) as allegedly being anticipated by Ito.

The Applicant respectfully submits that, claims 4, 6, and 7 are patentable over Ito at least because they recite, “...a setting section, wherein the setting section estimates a combustion rate of particulate matter in the exhaust purifying member in a state where the fuel adding device adds fuel to the exhaust gas, and wherein, based on the estimated combustion rate, the setting section sets a manner of adding fuel by the fuel adding device” and “...wherein the setting section switches the manner of adding fuel between a continuous fuel addition, in which fuel is continuously added to exhaust gas, and an intermittent fuel addition, in which fuel is intermittently added to exhaust gas.”

Certain embodiments of the present invention relate to a setting section that estimates a combustion rate of particulate matter in the exhaust purifying member in a state where the fuel adding device adds fuel to the exhaust gas, and sets a manner of adding fuel by the fuel adding device based on the estimated combustion rate. Further, the setting section switches the manner of adding fuel between a continuous fuel addition, in which fuel is continuously added to exhaust gas, and an intermittent fuel addition, in which fuel is intermittently added to exhaust gas. The Applicant respectfully submits that Ito at least does not describe or illustrate such a setting section.

In addition, the Applicant respectfully submits that none of the cited references identify a reason to modify Ito in the manner as claimed by the Applicant. The Applicant respectfully submits that, as discussed in *KSR Int'l Co. v. Teleflex, et al.*, No. 04-1350, (U.S. Apr. 30, 2007), it remains necessary to identify the reason why a person of ordinary skill in the art would have been prompted to combine alleged prior art elements in the manner as claimed by the Applicant.

Therefore, the Applicant respectfully submits that, for at least these reasons, claims 4, 6, and 7, as well as their dependent claims, are patentable over the cited references.

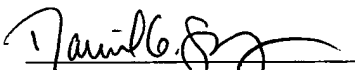
### **III. Conclusion**

In light of the above discussion, Applicants respectfully submit that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

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